

cleared by Homeland Security's Office of the Inspector General and the Immigration and Customs Enforcement's Office of Professional Responsibility. He was cleared by both of those of any wrongdoing; yet he got a 2-year jail sentence just in the last couple of days because he supposedly mistreated a drug dealer coming across the border carrying 150 pounds of drugs.

This is just not right. This is just wrong.

[From the Washington Times, Oct. 25, 2011]

(By Jerry Seper)

A U.S. Border Patrol agent has been sentenced to two years in prison for improperly lifting the arms of a 15-year-old drug smuggling suspect while handcuffed—in what the Justice Department called a deprivation of the teenager's constitutional right to be free from the use of unreasonable force.

Agent Jesus E. Diaz Jr. was named in a November 2009 federal grand jury indictment with deprivation of rights under color of law during an October 2008 arrest near the Rio Grande in Eagle Pass, Texas, in response to a report that illegal immigrants had crossed the river with bundles of drugs.

In a prosecution sought by the Mexican government and obtained after the suspected smuggler was given immunity to testify against the agent, Diaz was sentenced last week by U.S. District Judge Alia Moses Ludlum in San Antonio. The Mexican consulate in Eagle Pass had filed a formal written complaint just hours after the arrest, alleging that the teenager had been beaten.

Defense attorneys argued that there were no injuries or bruises on the suspected smuggler's lower arms where the handcuffs had been placed nor any bruising resulting from an alleged knee on his back. Photos showed the only marks on his body came from the straps of the pack he carried containing the suspected drugs, they said. Border Patrol agents found more than 150 pounds of marijuana at the arrest site.

The defense claimed that the smuggling suspect was handcuffed because he was uncooperative and resisted arrest, and that the agent had lifted his arms to force him to the ground—a near-universal police technique—while the other agents looked for the drugs.

The allegations against Diaz, 31, a seven-year veteran of the Border Patrol, initially were investigated by Homeland Security's Office of Inspector General and Immigration and Customs Enforcement's Office of Professional Responsibility, which cleared the agent of any wrongdoing.

But the Internal Affairs Division at U.S. Customs and Border Protection ruled differently nearly a year later and, ultimately, the U.S. Attorney's Office for the Western District of Texas brought charges.

The Law Enforcement Officers Advocates Council said the government's case was "based on false testimony that is contradicted by the facts."

In a statement, the council said that because the arrest took place at about 2 a.m., darkness would have made it impossible for the government's witnesses to have seen whether any mistreatment took place. It said Marcos Ramos, the Border Patrol agent who stood next to Diaz, testified that he did not see any mistreatment of the smuggling suspect.

The council said other witnesses made contradictory claims and some later admitted to having perjured themselves. Such admissions, the council said, were ignored by the court and the government. It also said that probationary agents who claimed to have witnessed the assault raised no objections

during the incident and failed to notify an on-duty supervisor until hours later.

"Instead, they went off-duty to a local 'Whataburger' restaurant, got their stories straight and reported it hours later to an off-duty supervisor at his home," the council said. "Then the 'witnesses' went back to the station and reported their allegations."

The council also noted that the teenager claimed no injuries in court other than sore shoulders, which the council attributed to "the weight of the drug load, approximately 75 pounds, he carried across the border."

The U.S. Attorney's Office for the Western District of Texas, which brought the charges, is the same office that in February 2006—under U.S. Attorney Johnny Sutton—prosecuted Border Patrol Agents Ignacio Ramos and Jose Compean after they shot a drug-smuggling suspect, Osvaldo Aldrete-Davila, in the buttocks as he tried to flee back into Mexico after abandoning a van filled with 800 pounds of marijuana. Aldrete-Davila also was given immunity in the case and testified against the agents.

Agents Ramos and Compean were convicted and sentenced to 11 and 12 years in prison, respectively. President George W. Bush commuted the sentences in 2009 after they had served two years.

The same prosecutors also charged Edwards County Deputy Sheriff Gilmer Hernandez in 2005 with violating the civil rights of a Mexican criminal alien after he shot out the tires of a van filled with illegals as it tried to run him over. One of the illegal immigrants in the van was hit with bullet fragments.

PROMOTING WOMEN ENTREPRENEURS

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Mr. Speaker, last week I spent a day traveling my district and meeting with half a dozen women entrepreneurs.

I started the morning spending time with children in Maple Grove, Minnesota, at the LilyPad Daycare that is owned by a dynamic mom and daughter team.

Next I went to Plymouth, and I visited and toured the medical manufacturer ATEK Medical, which is owned by Christy Bieber Orris and Kay Phillips. Now, they've got challenges on the horizon with the FDA and a new medical device tax, but they are determined to move forward.

I also visited a public relations firm that was started from scratch by Cindy Leines in her basement 23 years ago. Then I connected with Makya, who is living the dream of owning and operating her own educational toy store. And finally I sat down with Peg at Peg's Countryside Cafe.

Mr. Speaker, Minnesota is a great State teeming with endless possibilities because of women like these who are entrepreneurs taking risks, and we need to do more to encourage women to take the leap into entrepreneurship.

My hope is that last week's tour will help inspire more women to realize their dream of running their own business. After all, it's small businesses that will lead our way out of this tough

economic situation we're in and drive ourselves to more economic growth.

SMALL BUSINESS CERTAINTY

(Mr. OLSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLSON. Mr. Speaker, I rise to tell the story of an American small business owner, Joe Schneider, struggling to keep his head above water. A few weeks ago, I had lunch with Joe at the Barbed Rose Steakhouse, which he owns in Alvin, Texas.

When we finished our lunch, Joe took me on a walking tour to show me his plans to open five more restaurants in the area. He wants to revitalize his hometown by bringing commerce, jobs and good food to historic downtown Alvin. But the likelihood of a large tax increase, whether it be from tax cuts expiring or the White House's proposed tax hikes, has put his expansion plans on indefinite hold.

Small businesses deserve certainty from Washington and a tax policy that allows them to keep more of their money to expand, to reinvest in their communities, and to grow jobs.

Mr. Speaker, people like Joe Schneider need commonsense tax reform that will encourage American job creation, not hinder it.

AMERICAN JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from California (Mr. GARAMENDI) is recognized for 60 minutes as the designee of the minority leader.

Mr. GARAMENDI. Mr. Speaker, thank you for the opportunity to present here on the floor the solution to the question that was just raised by my colleague from the Republican side of the aisle.

A month ago, the President laid out a plan that would create millions of jobs here in the United States. It was the American Jobs Act. We are going to talk about this tonight. Before I get into the details of it, last week, in fact 1 week ago, I held a town hall meeting in Fairfield, California.

At that town hall meeting the question of jobs was on everybody's mind. What are you doing about jobs? What is Congress doing about jobs? It just seems as though nothing is happening, and all we're seeing from Congress is talk of the deficit and cuts.

Every time there's a cut, we have another job loss here in our area. Maybe it's a school teacher that's laid off or some highway project that's not going forward. So what's happening with the jobs?

And I then began to explain the American Jobs Act, and we're going to spend some time this evening talking just about that issue, the American Jobs Act.